IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 11 OF 2007

IN

WRIT PETITION NO. 8 OF 2007

MARMAGOA STEEL LIMITED, THROUGH MR. C. N. VENKATESH JOINT GENERAL MANAGER AND ANR ....Applicants

Versus

THE BOARD OF TRUSTEES, MORMUGAO PORT TRUST ....Respondent

Mr. A. N. S. Nadkarni with Mr.D. Lawande and Mr. S. Kamat, Advocates for the Applicant.

Mr. V. B. Nadkarni, Senior Advocate with Mr. Y. V. Nadkarni, Advocate for the Respondent.

Coram:- S.K. SHAH &
N. A. BRITTO, JJ.

Date:- 16th January, 2007

P.C.:-

Heard the learned Counsel on both sides and also the learned Counsel in Writ Petition No.12/2007.

We are disposing of both these Writ Petitions as well as the Civil Application by this common order.

We are informed that the petitioners in Writ Petition No.12/2007 are carrying on discharge operations at the Mooring Dolphin. They are awaiting in a queue to get berth either 10 or 11. The learned Counsel representing the respondent/Port Trust on instructions from the Traffic Manager who is present in Court states that M. V. Nicholas which is at berth No.11 is likely to sail off from that berth by 19th instant and further states that thereafter the petitioners in Writ Petition No.12/2007 are likely

to get the berth vacated by Nicholas.

We are also informed that berth No.10 is not likely to be available for long as it would be occupied by the passenger ship and thereafter by a fertilizer ship which is given priority as per instructions from the Central Government.

In this situation, the following order would meet the ends of justice between the parties. The petitioners in Writ Petition No.8/2007 are allowed to undertake discharge operation by allotting them the berth at Mooring Dolphin by 3 p.m. today or if possible way before that. Thereupon the petitioners in Writ Petition No.8/2007 shall be allowed to discharge the cargo into the barges. The barges should be allowed to be taken to berth No.7 after it falls vacant after the petitioners in Writ Petition No.12/2007 remove the goods after they get berth No.11. The petitioners in Writ Petition No.12/2007 shall remove the goods within 24 hours of their getting berth No.11. The learned Counsel representing the petitioners in Writ Petition No.8/2007 states that they would require space at berth No.7 for about 6 days for clearing the barges and taking the goods directly from the space made available at berth No.7. The learned Counsel representing the petitioners in Writ Petition No.8/2007 undertakes to clear the space alloted at berth No.7 within a period of 6 days from the date the space is made available and they start the discharge operation.

Liberty would be available to the petitioners in Writ Petition No.8/2007 to adopt any alternative mode for discharge of barges instead of at berth No.7. In case the petitioners in Writ Petition No.8/2007 adopt any alternative mode as stated earlier they should immediately inform the Port Authorities. The learned Counsel after taking instructions from the Traffic Manager states that they will make every effort to call the ship before 2 p.m. to berth at Mooring Dolphin.

S.K. SHAH, J.

N. A. BRITTO, J.

RD.